
STATUTORY INSTRUMENTS

1998 No. 2258 (S.115)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (Dental Charges)
(Scotland) Amendment (No. 2) Regulations 1998**

Made - - - - 14th September 1998
Laid before Parliament 17th September 1998
Coming into force - - 12th October 1998

The Secretary of State, in exercise of powers conferred on him by sections 70(1A), 71(1), 71A, 73, 74, 75, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1), sections 17(1) and(5) and 20(1), (3), (5) and (8)(a), 39(1) and 40(2) of the National Health Service (Primary Care) Act 1997(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Dental Charges) (Scotland) Amendment (No. 2) Regulations 1998 and shall come into force on 12th October 1998.

(2) In these Regulations “the principal Regulations” means the National Health Service (Dental Charges) (Scotland) Regulations 1989(3).

Amendment of the principal Regulations

2.—(1) Regulation 1(2) of the principal Regulations is amended as follows:—

(a) after the definition of “the Act” there is inserted the following definition:—

““the Primary Care Act” means the National Health Service (Primary Care) Act 1997;”;

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- (1) 1978 c. 29; sections 70(1A) and 71A were inserted by, and section 71 was amended by, section 11 of the Health and Medicines Act 1988 (c. 49); section 73 was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(11); section 74 was amended by the 1990 Act, Schedule 9, paragraph 19(12); section 105(7), which contains provisions relevant to the making of regulations, was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, paragraph 24 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.
- (2) 1997 c. 46; section 40(2) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.
- (3) S.I. 1989/363, as amended by S.I. 1990/1772, 1991/569, 1992/458, 1993/523, 1994/636, 1995/703, 1996/472, 1997/585 and 1998/610.

- (b) in the definitions of “capitation arrangement”, “continuing care arrangement”, “emergency”, “estimate”, “treatment” and “treatment on referral”, for each reference to the National Health Service (General Dental Services) (Scotland) Regulations 1974 there is substituted a reference to the National Health Service (General Dental Services) (Scotland) Regulations 1996(4);
 - (c) after the definition of “patient” there is inserted the following definition:–
 - ““pilot scheme” means a pilot scheme under Part I of the Primary Care Act under which personal dental services are provided;”;
 - (d) in the definition of “Statement of Dental Remuneration”, for the reference to regulation 26 of the National Health Service (General Dental Services) (Scotland) Regulations 1974 there is substituted a reference to regulation 22 of the National Health Service (General Dental Service) (Scotland) Regulations 1996;
 - (e) in the definition of “Statement remuneration” there are added at the end the words, “and, in relation to a service provided under a pilot scheme, means the amount that would be payable if the service were provided as part of general dental services”.
- (2) For regulation 2 of the principal Regulations there is substituted the following:–

“Charges for supply of dental appliances

2.—(1) Subject to paragraph 2(3), (4) and (8) of Schedule 11 to the Act (which provides for circumstances in which no charge may be made) and to paragraph (2), a charge of the amount provided for by regulation 4 may be made and recovered in respect of the supply under the Act of dentures and bridges.

(2) No charge shall be made and recovered under paragraph (1) in respect of a supply, otherwise than as part of general dental services, to a person who has undergone operative procedures affecting the mandible, the maxilla or the soft tissues of the mouth as part of treatment for invasive tumours.”.

- (3) For regulation 3 of the principal Regulations there is substituted the following:–

“Charges for other dental services

3.—(1) Subject to section 71(1)(b) and (c) of, and paragraph 3(4) of Schedule 11 to, the Act and to section 20(6) of the Primary Care Act (which provided for circumstances in which no charge may be made) and to paragraph (2), a charge of the amount provided for by regulation 4 may be made and recovered in respect of the provision of services as part of general dental services or under a pilot scheme.

- (2) No charge shall be made and recovered under paragraph (1) in respect of–
- (a) the supply of a dental appliance described in regulation 2(1);
 - (b) a visit by a dental practitioner to a patient;
 - (c) the opening by a dental practitioner of his surgery outside his normal opening hours in order to provide treatment in an emergency;
 - (d) the attendance at the surgery of a dental practitioner providing treatment in an emergency of a medical practitioner or of another dental practitioner, specifically with a view to the administration of a general anaesthetic in connection with treatment in an emergency; or
 - (e) treatment (including treatment under a pilot scheme) in the circumstances described in paragraph 7 or 13(2) (repair or replacement of restorations) of Schedule 1 (terms

of service) to the National Health Service (General Dental Services) (Scotland) Regulations 1996.”

(4) For regulation 4 of the principal Regulations there is substituted the following:–

“Calculation of charges

4.—(1) Subject to paragraphs (4) and (5), the amount of the charge which may be made and recovered under regulations 2(1) and 3(1) is 80% of the Statement remuneration (rounded down, where necessary, to the nearest whole penny).

(2) In these Regulations “Statement remuneration” means~~(5)~~–

- (a) in relation to the supply (whether or not as part of general dental services) of an appliance described in regulation 2(1), the remuneration provided for by the Statement of Dental Remuneration as that payable to a dental practitioner for the supply of an appliance of that type;
- (b) in relation to the provision of services described in regulation 3(1), the total amount provided for by that Statement as that payable to the dental practitioner for the provision of those services but where a patient has been accepted by a dental practitioner under a continuing care arrangement or a capitation arrangement or for treatment on referral, does not include the payment which, in accordance with that Statement, falls to be made to the dentist in respect of such an arrangement or referral.

(3) For the purposes of paragraph (2), where the Statement remuneration for any service is a fee of such amount as the Board may in its discretion approve, whether or not subject to a maximum, the amount is–

- (a) if the Board has approved a fee for the service, the amount of the fee so approved, notwithstanding any subsequent variation of that amount on appeal;
- (b) if the Board has refused to approve a fee for the service, the amount of any fee authorised for it on appeal.

(4) Where a dental practitioner–

- (a) has, under an arrangement for the provision of general dental services or services under a pilot scheme, begun to provide for a patient services which include the supply of an appliance described in regulation 2(1); and
- (b) has referred that patient, for the supply of that appliance otherwise than as part of general dental services or services under a pilot scheme, to a Health Board or NHS trust or to a hospital or other person or body with which arrangements have been made for the provision of services under the Act,

the amount of the charge for that supply shall be calculated in accordance with Schedule 1, and the dental practitioner shall provide the Health Board, NHS trust, hospital or other person or body with a written statement of the amounts mentioned in sub-paragraphs (a) and (b) of paragraph 1 of that Schedule.

(5) The amount of the charges payable under regulations 2(1) and 3(1) in respect of all dental appliances supplied and other services provided in pursuance of any one contract or arrangement shall not exceed £340 in the aggregate; and £340 is the sum prescribed for the purposes of paragraph 3(3) of Schedule 11 to the Act and section 20(5) of the Primary Care Act.”

(5) Regulation 5 of the principal Regulations is amended as follows:–

(5) See section 71A(4) and (5) of the Act. Section 71A was inserted by the Health and Medicines Act 1988 (c. 49), section 11(6).

- (a) in paragraph (1), after the word “services” there are inserted the words “or under a pilot scheme”;
- (b) in paragraph (2)–
 - (i) after the words “services” in the second place in which it appears there are inserted the words “and it is a condition of the exemption under section 20(6) of the Primary Care Act in respect of the supply of a dental appliance, or other services provided, to a person under a pilot scheme”;
 - (ii) in sub-paragraph (a), after the words “claim for remuneration or estimate”(6) there are inserted the words “, or in the case of services provided under a pilot scheme on a form to like effect,”.
- (6) Regulation 6 of the principal Regulations is amended as follows:–
 - (a) in paragraph (1)–
 - (i) for the words “section 70 of the Act” there are substituted the words “regulation 2(1)”;
 - (ii) after the word “services” there are inserted the words “or services provided under a pilot scheme”;
 - (b) in paragraph (2)–
 - (i) after the words “general dental services” there are inserted the words “or services provided under a pilot scheme”;
 - (ii) for the words “section 70 or section 71 of the Act” there are substituted the words “regulation 2(1) or 3(1)”;
 - (iii) for sub-paragraph (b) there is substituted–
 - “(b) shall require the patient to acknowledge, on the appropriate part of the claim for remuneration or estimate, or, in the case of services provided under a pilot scheme, on a form to like effect, and before that claim or estimate or form to like effect is sent to the Board, his obligation to pay a charge which is made;”;
- (7) In regulation 8(1) of the principal Regulations, for the words “authorised by section 70 of the Act” there are substituted the words “under regulation 2(1)”.
- (8) In regulation 9(1) of the principal Regulations, after the word “services” where it first appears there are inserted the words “or providing services under a pilot scheme”.
- (9) In regulation 10 of the principal Regulations, after the word “services” there are inserted the words “or services under a pilot scheme”.
- (10) After regulation 11 of the principal Regulations there is inserted the following:–

“Functions of the Scottish Dental Practice Board in relation to pilot schemes

11A. The Board shall have the following powers in relation to pilot schemes:–

- (a) to approve, or refuse to approve, the fees referred to in regulation 4(3) and for that purpose to direct a dental practitioner to submit to the Board such information as it may require;
- (b) to require specified evidence to be supplied for the purposes of regulation 5(2)(b);
- (c) to refer a matter mentioned in paragraph 1 of Schedule 4 to the relevant Health Board.”

(6) Those words were substituted by regulation 17(5) of [S.I. 1990/1772](#).

- (11) In regulation 12 of the principal Regulations, paragraphs (3) and (4) are revoked.
- (12) Schedule 1 to the principal Regulations is amended as follows:–
- (a) in paragraph 1(a), for the words “authorised by sections 70 and 71 of the Act” there are substituted the words “payable under regulations 2(1) and 3(1)”;
 - (b) in paragraph 1(b), for the words “authorised by those sections” there are substituted the words “payable under those regulations”.
- (13) In paragraph 2 of Schedule 4 to the principal Regulations for the words “the matter referred” there are substituted the words “any matter referred to it under paragraph 1 or, in the case of services provided under a pilot scheme, any such matter coming to its attention.”.

St Andrew’s House,
Edinburgh
14th September 1998

Sam Galbraith
Minister for Health, Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Dental Charges) (Scotland) Regulations 1989 (“the principal Regulations”).

The main purpose of the amendments is to make provision for charges for dental services, provided under a pilot scheme for personal dental services established under the National Health Service (Primary Care) Act 1997, to be made and recovered in like manner as charges may be made and recovered under the principal Regulations in respect of general dental services provided under Part II of the National Health Service (Scotland) Act 1978. The Regulations also make minor miscellaneous amendments.